

IN RE:

JAVIER ENRIQUE FERNANDEZ ESPINOSA

Debtor(s)

CASE NO. 15-00284-ESL

CHAPTER 13

TRUSTEE'S MOTION TO DISMISS
NOTICE AND CERTIFICATE OF SERVICE

TO THE HONORABLE COURT:

NOW COMES José R. Carrión, Chapter 13 Trustee, through the undersigned attorney, and very respectfully alleges and prays:

1. There is CAUSE for this case dismissal as the Debtor(s) is (are) in material default with respect to the terms of the confirmed plan (or proposed plan). As of August 09, 2017 the default is equal to \$4,300.00. 11 U.S.C. §1307(c) (6).

2. There is CAUSE for this case dismissal until the debtor(s) becomes current with all the required payments under the plan since this situation constitutes an unreasonable delay prejudicial to creditors. 11 U.S.C. §1307(c) (1).

WHEREFORE the Trustee respectfully prays that this motion be granted and that an order dismissing this case be entered for cause pursuant to 11 U.S.C. §1307(c) for the reasons herein set forth.

NOTICE

30 DAYS NOTICE: Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Rule 9006(f) of Fed. R. Bank. P., if you were served by mail, any party against whom this document is served, or any other party in interest who objects to the relief sought herein, shall file and serve an objection or other appropriate response to this document with the Clerk's Office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the motion to dismiss will be deemed unopposed and may be granted or the case may be converted to a Chapter 7 case without the need of further notice or hearing.

NEGATIVE CERTIFICATION PURSUANT TO SECTION 201(B)(4) OF THE SERVICEMEN'S CIVIL RELIEF ACT OF 2003: The Chapter 13 Trustee declares that according to the attached certification(s), provided by the Department of Defense Manpower Data Center (DMDC), the Debtor(s) is (are) not in active duty or under call to active duty as a member(s) of the ARMY, NAVY, or AIR FORCES of the United States of America; National Guard; the Public Health Service or the National Oceanic and Atmospheric Administration.

In San Juan, Puerto Rico this, August 09, 2017

/s/ JOSE R. CARRION

JOSE R. CARRION, TRUSTEE
PO BOX 9023884
SAN JUAN, PR 00902-3884
TEL. 787-977-3535 FAX. 787-977-3550
LM

**Status Report
Pursuant to Servicemembers Civil Relief Act**SSN: XXX-XX-6166

Birth Date:

Last Name: FERNANDEZ ESPINOSAFirst Name: JAVIER ENRIQUE

Middle Name:

Active Duty Status As Of: Aug-09-2017

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Department of Defense - Manpower Data Center
4800 Mark Center Drive, Suite 04E25
Arlington, VA 22350

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 3901 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q33) via this URL: <https://scra.dmdc.osd.mil/faq.xhtml#Q33>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 3921(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Certificate ID: OF13NF42K593U50

15-00284-ESL

CERTIFICATE OF MAILING

.....
The undersigned hereby certifies that a true copy of the foregoing document was mailed by first class mail or
electronically sent to the parties listed below:
.....

JUAN M SUAREZ COBO*
LEGAL PARTNERS PSC
BOX 316
SENOIAL STATION
SAN JUAN, PR 00926 -6023
.....

JAVIER ENRIQUE FERNANDEZ ESPINOSA
405 AVE ESMERALDA
PMB 305
GUAYNABO, PR 00969
.....

DATED: 08/09/2017

/s/ Jose R. Carrion

OFFICE OF THE CHAPTER 13 TRUSTEE

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